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Perkins  
Coie

Robert F Bauer  
PHONE 202 434 1602  
FAX 202 654 9104  
EMAIL RBauer@perkinscoie.com

607 Fourteenth Street NW  
Washington, D.C. 20005-2011  
PHONE 202 628 6600  
FAX 202 434 1690  
www.perkinscoie.com

November 22, 2004

Lawrence Norton, Esq.  
Tracey L. Ligon, Esq.  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

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**Re: MUR 5390**  
**SER Corp. d/b/a Galileo Restaurant, Respondent**

Dear Mr. Norton and Ms. Ligon:

We are replying to the Commission's notification that it found "reason to believe" that SER Corp. d/b/a Galileo Restaurant ("Galileo") may have violated the Act when it offered a fixed price package for dinners arranged for individual fundraising by Mitchell Delk, an officer of Freddie Mac.

The Commission's Factual and Legal Analysis ("FLA") expresses concern that "questions remain" about the pricing of these dinners. FLA at 4. Those questions appear to relate to the nature of the package pricing: whether the prices offered to Mr. Delk for the dinners are comparable to the luncheon and dinner packages routinely offered by Galileo for "Restaurant Week." There appears also some remaining uncertainty about what the restaurant manager may have meant when advising the press that fixed price packages of this nature would be available only to "a friend of the house." FLA at 3.

The letter provided by Galileo in response to the original Commission notification in this matter, far from being "cursory," sought to address these questions straightforwardly. Galileo is a restaurant that serves the entire Washington, D.C. area. Virtually by definition, it is nonpartisan: it is interested in clientele, not politics. Those who are "friends of the house" patronize the restaurant. Mr. Delk, an avid repeat customer, earned his friendship only in that way.

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ANCHORAGE BEIJING BELLEVUE BOISE CHICAGO DENVER HONG KONG LOS ANGELES  
MENLO PARK OLYMPIA PORTLAND SAN FRANCISCO SEATTLE WASHINGTON, D C

Perkins Coie LLP (Perkins Coie LLC in Illinois)

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Tracey L. Ligon, Esq.  
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The package offered to Mr. Delk was unquestionably attractive as a business proposition. Mr. Delk's package was guaranteed: he paid for a specific number of dinners and he assumed the full cost even if the full number of anticipated guests did not appear. Moreover, as part of the arrangement, Mr. Delk committed to a specified number of dinners. The price per dinner must be considered in the light of those guarantees, which are significant and would be attractive to any restaurant establishment. Moreover, Galileo benefited from exposure to clientele who, attending the Delk event, could sample Galileo's cuisine and, if satisfied with the food and service, return on other occasions.

In late 2000 or early 2001, Galileo offered Mr. Delk a flat fee structure for these dinners, whereby Mr. Delk would be charged a flat rate of \$750 for 21-30 guests, or \$1,000 for 31-40 guests. This structure is based on a minimum cost to Mr. Delk of \$25.00 per person. In the event of the minimum number of guests in that range, however, the cost to Mr. Delk could be as high as \$35.72 per person (\$750 for 21 persons). If 20 persons or less attended the dinner, Mr. Delk was charged \$500. While records were not maintained with respect to attendance, Galileo management during the time period in question recalls that, in most cases, approximately 10 to 12 persons attended the dinners. In those instances, the cost to Mr. Delk would be between \$42.00 to \$50.00 per person.

The dinner package offered to Mr. Delk did not differ in any material respect from the packages offered as part of "restaurant week." Three courses were offered, and wine by the glass, of the relatively inexpensive variety, was available to those who were interested. The restaurant used whatever room was available; and typically, the same room used for a Delk event could be—and was—booked for a different party, for a different customer, later the same night.

Galileo currently offers a fixed price three-course dinner menu to its patrons who sit in the Osteria Del Galileo section of the restaurant. This three-course dinner is offered Tuesday through Saturday, year-round, and is available to all Galileo customers wishing to sit in the designated area. The menu allows the customer to get an appetizer, main course and dessert, and includes wine, taxes and tip, for under \$25.00.

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This approach is identical to that used by Galileo during Restaurant Week and for the dinners hosted by Mr. Delk.

This matter presents no evidence of any motivation other than to service customers and build business. A customer of any kind, offering guarantees like Mr. Delk's, would have become a "friend of the house" and qualified for the same fixed price and guaranteed package.

Should your office have additional questions, we are certain that we can answer them.

Galileo has committed no violation of law and should be dismissed from this proceeding.

Very truly yours,



Robert F. Bauer  
Marc E. Elias  
Counsel to SER Corp. d/b/a Galileo Restaurant